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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/407,434 | 09/29/1999 | ALOK AGGARWAL | YO999-390 | 2755 |

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EXAMINER

BROWN, TIMOTHY M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2165

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/407,434

Applicant(s)

AGGARWAL ET AL.

Examiner

Timothy M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Claims 1-10 have been examined.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it does not identify the mailing or post office address of each inventor. A mailing or post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing or post office address should include the ZIP Code designation. The mailing or post office address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 5 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Appropriate correction of the claims is required.

5. Claim 1 recites the limitation "the customer's dynamically changing profile" in lines 11 and 12. Claim 1 also recites the limitation "the customer's observed behavior." There is insufficient antecedent basis for these limitations in the claim.

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✓ 6. Claim 5 recites the limitation "the interaction" in line 5. Claim 5 recites the "customer's 'click-through stream' and other direct interaction" in lines 3-4. The claim is indefinite because it is unclear whether "[t]he interaction" refers to the "customer's 'click-through stream'" or "other direct interaction."

✓ 7. Claim 10 recites "wherein actions by the on-line commerce site on which the site's profile is dynamically modified include prices of items offered for sale, packaged deals and bonuses." This claim is indefinite because prices of items offered for sale, packaged deals and bonuses are not actions on which the site's profile can be modified.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. **Claims 1-3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Solomon (US 6,035,288).**

Regarding claim 1, Solomon teaches a computer assisted on-line negotiation method in which an on-line e-commerce site can negotiate with a customer based on his or her dynamic profile comprising the steps of: generating off-line static customer profiles based on past history that the site has about various customers, including multiple value attributes (col. 1, line 67; col. 2, lines 1-5; and col. 3, lines 12-14 and 43-52); assigning a static customer profile to a new customer visiting the on-line e-commerce site, the initial assignment to a profile being based on whatever information is available about the customer at the time of assignment (col. 3, lines 60-64; and col. 4, lines 1-7); negotiating by the on-line e-commerce site with the customer based on the customer's dynamically changing profile (col. 1, lines 44-61; col. 3, lines 60-67; col. 4, lines 63-67; and col. 5, lines 1-19); and changing the customer's dynamically changing profile during negotiations based on the customer's observed behavior (col. 4, lines 1-7).

Regarding claim 2, Solomon further teaches a computer assisted on-line negotiation method further comprising the step of updating past history information based on the negotiations with the customer (col. 4, lines 1-7).

Regarding claim 3, Solomon further teaches a computer assisted on-line negotiation method wherein the attributes included in the past history information include ~~non~~-quantitative information (col. 4, lines 1-7).

✓ Regarding claim 7, Solomon further teaches a computer assisted on-line negotiation method further comprising the steps of: capturing by the customer the on-

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line e-commerce site's actions; and formulating by the customer a profile of the on-line e-commerce site (col. 4, lines 13-31).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon (US 6,035,288) in view of Gerace (US 5,991,735).**

✓ Regarding claim 4, Solomon teaches all the limitations discussed under claim 3 above. Solomon does not specifically teach a computer assisted on-line negotiation method wherein the non-quantitative information includes season and time of day. However, Gerace teaches creating a customer profile wherein the profile comprises the date and time when the customer accessed a particular website (col. 7, lines 4-47). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Solomon to include the teachings of Gerace. Providing the method of Solomon with the step of updating past negotiation history information with non-quantitative information including season and time of day would provide the e-commerce website with greater bargaining power because the e-commerce site would have a means for estimating a customer's needs at a particular time.

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✓ Regarding claim 5, Solomon teaches all the limitations discussed under claim 1 above. Solomon does not specifically teach a computer assisted on-line negotiation method further comprising the steps of: capturing by the on-line e-commerce site the customer's "click-through stream" and other direct interaction with the on-line e-commerce site; and analyzing the interaction with the on-line e-commerce site to update the customer's dynamic profile. Gerace teaches recording the link from which the customer accesses an on-line targeted advertising system (col. 7, lines 4-47). Gerace also teaches storing each click of a customer's mouse to record a user's motion and movements during a session with the targeted advertising system (Id.). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Solomon to include the teachings of Gerace. By capturing by the on-line e-commerce site the customer's "click-through stream" and other direct interaction with the on-line e-commerce site and analyzing the interaction with the on-line e-commerce site to update the customer's dynamic profile, the e-commerce site would be informed of which items the customer finds most interesting. Thus, the e-commerce site would be afforded greater bargaining power by knowing the customer's preferences.

12. ✓ Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon (US 6,035,288) in view of Gerace (US 5,991,735) and further in view of Dedrick (US 5,717,923).

Solomon teaches all the limitations discussed under claim 5 above. Solomon does not teach a computer assisted on-line negotiation method wherein the other direct

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interaction includes the customer's voice and physical actions. Gerace teaches recording a user's motions/movements through a website (col. 7, lines 16-29). Dedrick teaches an input means for modifying a customer's profile using a voice input means (col. 5, lines 16-33). At the time of the applicant's invention, it would have been obvious to one having ordinary skill in the art, to modify the method of Solomon to include the teachings of Gerace and Dedrick. By recording a customer's direct interaction with the method of Solomon, including the customer's voice and physical actions, the Solomon method would be informed of the mood of the customer thereby allowing the method to respond to the customer's mood.

13. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon (US 6,035,288) in view of Birkhead (Birkhead, E., "Digging with Gopher," LAN Computing, Vol. 5, no. 4 (April 1994) p. 23).

✓ Regarding claim 8, Solomon teaches all the limitations discussed under claim 7 above. Solomon does not specifically teach an on-line negotiation method further comprising the steps of storing by the customer a formulated profile of the on-line e-commerce site in a database of on-line e-commerce site profiles and accessing the on-line e-commerce site from the database by the customer to begin negotiations with the on-line e-commerce site. Birkhead teaches having a network user establish personal bookmarks that connect to frequently-used services and applications (page 1). At the time of the applicant's invention, it would have been obvious to one having ordinary skill in the art, to modify the method of Solomon, to include the teachings of Birkhead. By adding the steps of storing by the customer a formulated profile of the on-line e-

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commerce site in a database of on-line e-commerce site profiles and accessing the on-line e-commerce site from the database by the customer to begin negotiations with the on-line e-commerce site, the Solomon method would have the ability to provide customers with quick access to the on-line e-commerce website. Moreover, storing by the customer a formulated profile of the on-line e-commerce site in a database of on-line e-commerce site profiles would prevent the customer from losing the URL associated with the on-line e-commerce website.

✓ Regarding claim 9, Solomon further teaches a computer assisted on-line negotiation method recited further comprising the step of dynamically modifying by the customer the on-line e-commerce site's profile during negotiations with the on-line e-commerce site based on actions by the on-line e-commerce site (col. 4, lines 16-32 and 63-67; and col. 5, lines 1-7).

✓ The examiner interprets claim 10 to mean a computer assisted on-line negotiation method wherein dynamic modifications to the e-commerce site's profile includes changes to prices of items offered for sale, packaged deals and bonuses. The examiner notes that Solomon teaches this limitation (col. 4, lines 63-67; and col. 5, lines 1-20).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Sloo (US 5,668,953) 16 September 1997; Method and apparatus for handling a complaint

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- b. Kennedy et al. (US 6,055,519) 25 April 2000; Framework for negotiation and tracking of sale of goods
- c. Burchetta et al. (US 6,330,551) 11 December 2001; Computerized dispute resolution system and method
- d. Smolen (US 5,915,243) 22 June 1999; Method and apparatus for delivering consumer promotions
- e. Jacobi et al. (US 6,064,980) 16 May 2000; System and methods for collaborative recommendations
- f. Angles et al. (US 5,933,811) 3 August 1999; System and method for delivering customized advertisements within interactive communication systems
- g. Danial (US 5,940,806) 17 August 1999; Method and apparatus for receiving, storing and providing data corresponding to geometrically describable raw materials
- h. Katz et al. (US 6,055,513) 25 April 2000; Methods and apparatus for intelligent selection of goods and services in telephonic and electronic commerce
- i. Wamsley et al. (US 5,956,687) 21 September 1999; Personal injury claim management sytem
- j. Sloo (US 5,985,450) 20 April 1999; Method and apparatus for handling complaints
- k. Burge et al. (US 6,014,638) 11 January 2000; system for customizing computer displays in accordance with user preferences

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- l. Boe et al. (US 6,236,975) 22 May 2001; System and method for profiling customers for targeted marketing
- m. Kerstetter, J., "C/S Learns a Few Web Tricks; Enterprise application vendors tailor intranet wares to extend the back end," PC Week, (March 31, 1997) p. 059
- n. "PEOPLESOFTE AND NETSCAPE EXTEND MISSION CRITICAL APPLICATIONS TO THE WEB," Computergram International, No. 3137 (April 11, 1997)
- o. Gallant, M., "An electronic partner at the negotiating table," Canadian Business Review, Vol. 18, no. 3 (Autumn 1991) p. 42
- p. "LIMITrader Securities Launches Electronic Bond Trading System to Tap Secondary Market," PR Newswire (May 13, 1998)
- q. "Exploring Alternatives – A Growing Number Of Sites Offer A Variety Of Services, Ranging From Online Auctions To Detailed Catalogs To Comparative Technical Data," Electronic Buyers News (July 12, 1999)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Brown whose telephone number is (703) 305-1912. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703)


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746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Timothy M. Brown
Examiner
Art Unit 2165

TMB
March 14, 2002


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